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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,390	05/16/2001	Carol Lynn Ainsworth	DN2001102	3431

7590 03/01/2004

The Goodyear Tire & Rubber Company  
Patent & Trademark Department -D/823  
1144 East Market Street  
Akron, OH 44316-0001

EXAMINER

NGUYEN, THUKHANH T

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/858,390

Applicant(s)

AINSWORTH ET AL.

Examiner

Thu Khanh T. Nguyen

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 05 February 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 6-18.Claim(s) withdrawn from consideration: 1-5.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: see attachment

### ADVISORY ACTION

1. The claims 7, 9-10 and 14-17 has mistakenly rejected over the Japanese reference ('208). The Applicants were correct in assuming the reference '121 has been applied. The examiner apologizes for the confusions.
2. Applicant's arguments filed February 05, 2004 have been fully considered but they are not persuasive.

The Applicants have argued that it is not obvious to modify the Japanese reference '121' by providing curved mandrels at both ends of the engaging sections. The Japanese reference, however, discloses that hose is secured by the first and second engaging sections, which curved the hose into the shape to be formed (page 1, 1<sup>st</sup> paragraph of the translation). Therefore, it would have been obvious to one of ordinary skill in the art to provide both engaging sections, or mandrels, with curved ends to shape the hose at both ends as suggested by the JP '121 reference. The court held that mere duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

The applicants further argued that the prior art fails to teach or suggest a threaded connection between the mandrel and the center bar, which allows for a rotary angular alteration in the relative positions of the curved ends as well as for a linear adjustment to the separation distance therebetween. This argument, however, is not commensurate with the scope of the claims. The alternate use of a threaded screw or a pin or nuts and bolts for securing different parts together have been well known to one of ordinary skill in the art. The use of a threaded screw for three-dimensional adjustment of the mandrel legs was not disclosed in the claims.

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Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In regard to the rejection of claim 8 under the Japanese reference in view of Usui, the applicants have argued that Usui is non-analogous art. However, a prior art reference is analogous if the reference is in the field of applicant's endeavor or, if not, the reference is reasonably pertinent to the particular problem with which the inventor was concerned. In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). In this case, both Usui and the Japanese reference are related to a reshaping of a plastic hose, pipe, or tube. Therefore, they are in the same field. The mandrel 60 of the current application is used to shape or support the central portion of the hose, which is supported between the two engaging members (Specification, para. 0013). Usui discloses mandrels (362, 372) for supporting and shaping the central section of the plastic tube. It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify the JP'121 by providing a hollow mandrel, which could be straight or curved, in between the engaging sections to support the hose or to shape that section of the hose, depending on the intended use of the apparatus. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 571-272-1136. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TN



ROBERT DAVIS  
PRIMARY EXAMINER  
GROUP 1800 / 700

2/23/07